

objecting to the legality of such a mode of proceeding, as indeed he could not, answered so fully as to shew, admitting the truth of the circumstances set forth by him, that his intestate had fully discharged his duty in all respects; and the truth of his answer not having been controverted, the proceedings against him were thus, at once, brought to a close; and he too was thus discharged from all concern with any further proceedings in the case.

But on its being also alleged by the heirs of the intestate Jordan, that there was a large amount of the purchase money unpaid; it was found that the Court could not deliver itself of the property which it had undertaken to administer, without calling on the purchaser to pay what remained due; and on his failing to do so, to proceed against him. According to the principles of the English adjudications there could be no doubt, that the purchaser himself might, by a summary proceeding, at the instance of any one interested, be compelled to comply with his contract, and pay the purchase money. This Court, it was confidently believed, might, upon similar principles, proceed in a like summary manner to enforce the payment of the purchase money. *Andrews v. Scotton*, 2 Bland, 629; *Casamajor v. Strobe*, 1 Cond. Cha. Rep. 195. And it could have *had no hesitation, at the instance of any one interested, so to have proceeded against the purchaser Jeremiah Booth himself; but he was dead. His liability, however, it was obvious, had, in this respect, devolved upon his representatives, so far as they had assets. And therefore, an order was passed, calling on his heir and administrator to pay the balance of the purchase money, or shew cause. John Llewellyn and wife accordingly, among other things, shewed for cause, that the deceased purchaser Booth had, as they alleged, under the authority of the Court, and with the consent of the trustee, made sundry payments to the trustee, and also Edmund Key, the guardian of the infant heirs, leaving a balance still due, &c. Whereupon it was agreed and adjudged, that no more than \$2,018.93 of the purchase money then remained due. There was no doubt, that the Court, as the vendor, for the benefit of all concerned, to the extent of the purchase money unpaid, held an equitable lien upon the estate sold to Booth; and there was no doubt, that in virtue of that equitable lien a re-sale of the estate might be made for the payment of the purchase money. Upon those grounds therefore, the trustee Merrick was appointed; and a re-sale was ordered and made accordingly.

Thus, by a consequence of the original suit, a new controversy arose, after the original plaintiff had been satisfied, and had departed from the case, between the original defendants, now placed in the position of plaintiffs against the representatives of the deceased purchaser as defendants. This new controversy, as regarded the balance of the purchase money, admitted to be due,